
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Birach Broadcasting Corporation)	File No.: EB-FIELDSCR-14-00016476
)	
Licensee of Station KOLE)	NOV No.: V201432540013
)	
Port Arthur, Texas)	Facility ID: 62238
)	

NOTICE OF VIOLATION

Released: July 24, 2014

By the Resident Agent, Houston Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Birach Broadcasting Corporation (Birach), licensee of AM broadcast station KOLE in Port Arthur, Texas. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On July 11, 2014, agents of the Enforcement Bureau's Houston Office were unable to locate Station KOLE's main studio in Port Arthur, Texas and contacted Birach's headquarters. Employees there instructed the agents to telephone Station KOLE's local station manager. The agents met and interviewed Birach's local station manager in Beaumont, Texas and uncovered the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation." Birach's station manager told the agents that the station had EAS equipment but had not installed it since the station returned to the air in May of 2014. He also stated that the station's uninstalled EAS equipment was not

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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CAP compliant. The EAS equipment located in Station KOLE's previous main studio was no longer accessible.

- b. 47 C.F.R. § 73.1125(a): "Except for those stations described in paragraph (b) of this section, each AM, FM, and TV broadcast station shall maintain a main studio at one of the following locations: (1) Within the station's community of license; (2) At any location within the principal contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) Within twenty-five miles from the reference coordinates of the center of its community of license as described in § 73.208(a)(1)." The station manager advised the agents that Station KOLE did not have a main studio facility and had not had a main studio facility for approximately one year.
- c. 47 C.F.R. § 73.3526(a)(2): "Every permittee or licensee of an AM, FM, TV or Class A TV station in the commercial broadcast services shall maintain a public inspection file" The station manager told the agents that Station KOLE had not maintained a public inspection file since the file had been stolen by a former employee about a year ago.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Birach Broadcasting Corporation must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct Birach Broadcasting Corporation to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Birach Broadcasting Corporation with personal knowledge of the representations provided in Birach Broadcasting Corporation's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

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make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Houston Office
9597 Jones Road, #362
Houston, Texas 77065

6. This Notice shall be sent to Birach Broadcasting Corporation at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Stephen P. Lee
Resident Agent
Houston Office
South Central Region
Enforcement Bureau

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).